

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Hazardous Materials
Transportation Incorporated
7951 Airway Road, Suite A
San Diego, CA 92154

ID No. CAR 000 054 551

Respondent

Docket HWCA 2002-0040

STIPULATION AND ORDER

Health and Safety Code
Section 25187

The State Department of Toxic Substances Control (Department) and Hazardous Materials Transportation Incorporated (Respondent) enter into this Stipulation and Order (Order) and agree as follows:

1. The Department issued an Enforcement Order to the Respondent on April 25, 2003, and alleged that the Respondent violated California Code of Regulations (Cal. Code Regs.), title 22, section 66263.18 and section 25201 of the Health and Safety Code (Health & Saf. Code) because the Respondent repeatedly stored hazardous waste in a transfer facility beyond the ten day limit. A dispute exists regarding the allegations in the Order.
2. The parties wish to avoid the expense of further litigation and to ensure prompt action to achieve the Schedule for Compliance below.
3. Jurisdiction exists pursuant to Health & Saf. Code, § 25187.
4. Respondent waives any right to a hearing in this matter.
5. This Order shall constitute full settlement of the violations alleged in the Draft Enforcement Order, but does not limit the Department from taking appropriate enforcement action concerning other violations.

SCHEDULE FOR COMPLIANCE

6. All alleged violations have been corrected.

7.1. Liability: Nothing in this Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as provided in this Order. Notwithstanding compliance with the terms of this Order, Respondent may be required to take further actions as are necessary to protect public health or welfare or the environment.

7.2. Government Liabilities: The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent or related parties specified in paragraph 9.3 in carrying out activities pursuant to this Order, nor shall the State of California be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to this Order.

7.3. Extension Requests: If Respondent is unable to perform any activity or submit any document within the time required under this Order, the Respondent may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

7.4. Extension Approvals: If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

PAYMENTS

8. Within 30 days of the effective date of this Order, Respondent shall pay the first of six monthly installments in the amount of \$3,000.00. Respondent shall pay the Department a total of \$18,000.00, payable over a six month period. Respondent's check

shall be made payable to Department of Toxic Substances Control, shall include the
Docket Number and shall be delivered together with the attached Payment Voucher to:

Department of Toxic Substances Control
Accounting Office
1001 I Street
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of the check shall be sent to:

Ramon B. Perez
Senior Staff Counsel
Office of Legal Counsel and Investigation
Department of Toxic Substances Control
2878 Camino Del Rio South, Suite 402
San Diego, California 92108

Juan M. Jimenez, Chief
Border Unit
Statewide Compliance Division
Department of Toxic Substances Control
2878 Camino Del Rio South, Suite 402
San Diego, California 92108

If Respondent fails to make payment as provided above, Respondent agrees to pay interest at the rate established pursuant to Health & Saf. Code, § 25360.1 and to pay all costs incurred by the Department in pursuing collection including attorney's fees. In addition, Respondent agrees to contract for environmental and safety training for employees of Hazardous Materials Transportation, Inc. for a credit of up to \$5,000.00. Attendance must be completed, and Respondent must submit a certificate of completion to DTSC within 185 days of the effective date of this Order. If Respondent fails to submit the certificate(s) as required, an additional penalty of \$10,000.00 will be due and payable within 30 days after the expiration of the 185 day period. The 185 day period may be extended by the DTSC Branch Chief or his/her designee, upon receiving written request demonstrating good cause.

OTHER PROVISIONS

9.1. Additional Enforcement Actions: By agreeing to this Order, the Department does not waive the right to take further enforcement actions, except to the extent provided in this Order.

9.2. Penalties for Noncompliance: Failure to comply with the terms of this Order may subject Respondent to civil penalties and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health & Saf. Code, § 25188 and other applicable provisions of law.

9.3 Parties Bound: This Order shall apply to and be binding upon Respondent and its officers, directors, agents, receivers, trustees, employees, contractors, consultants, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Order.

9.4. Effective Date: The effective date of this Order is the date it is signed by the Department.

9.5. Integration: This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this agreement.

Dated: 10-8-03

Original signed by
Jesus Ojeda, President
Hazardous Materials Transportation

Dated: 10-13-03

Original signed by
Nennet V. Alvarez, Chief
Cypress Branch
Statewide Compliance Division
Department of Toxic Substances Control